

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**BILLIE JOE CHAPMAN,**

**Plaintiff,**

**V.**

**YVONNE D. SOSA-GAYTON, TIM  
BURNS, and ALL OF THE DOUGLAS  
COUNTY PUBLIC DEFENDERS  
OFFICE IN OMAHA, NEBRASKA,  
DOUGLAS COUNTY, NE,**

**Defendants.**

**8:15CV304**

# MEMORANDUM AND ORDER

This matter is before the Court on its own motion. Plaintiff Billie Joe Chapman is a prisoner incarcerated at the Iowa Medical and Classification Center in Coralville, Iowa. He filed his Complaint in this Court on August 17, 2015, but failed to include the \$400.00 filing and administrative fees. In addition, Chapman did not file a request to proceed in forma pauperis in this action. Regardless, the court would not grant such a motion unless Chapman showed he is under imminent danger of serious physical injury, see 28 U.S.C. §1915(g), because Chapman is barred from proceeding in forma pauperis in the federal district courts.

Chapman is an experienced pro se litigant with an extensive history of filings in the federal district courts. As set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. §1915(g).

The Court has reviewed the United States Case/Party Index and finds that Chapman has, on three or more prior occasions, while incarcerated, brought an action in the federal district courts that was dismissed as frivolous or for failure to state a claim. See *Chapman v. Baldwin*, No. 4:14-cv-00065-REL (S.D.Iowa July 3, 2014) (dismissed as frivolous); *Chapman v. Craig, et. al.*, 4:14-cv-00069-REL (S.D.Iowa July 3, 2014) (dismissed as frivolous); *Chapman v. McKinney, et al.*, No. 1:14-cv-00028-EJM (N.D. Iowa Aug. 25, 2014) (dismissed on statute of limitations grounds)<sup>1</sup>; *Chapman v. Parry-Jones, et al.*, No. 1:14-cv-00109-EJM (N.D. Iowa Nov. 4, 2014) (dismissed on statute of limitations grounds). Accordingly,

IT IS THEREFORE ORDERED that:

1. Chapman has 30 days to pay the Court's \$400.00 filing and administrative fees or file a motion for leave to proceed in forma pauperis and show cause why he is entitled to proceed in forma pauperis in this action. In the absence of good cause shown, or the payment of the full filing fee, this action will be dismissed.
2. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: September 21, 2015: deadline for Plaintiff to show cause or pay full filing fee.

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<sup>1</sup> A dismissal on statute of limitations grounds constitutes a dismissal for failure to state a claim. See *Jones v. Bock*, 549 U.S. 199, 215 (2007) ("If the allegations . . . show that relief is barred by the applicable statute of limitations, the complaint is subject to dismissal for failure to state a claim[.]").

DATED this 19<sup>th</sup> day of August, 2015.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge